In the High Court of Punjab and Haryana, Chandigarh.

C.W.P.No.4465 of 2004

Date of Decision: 8.3.2007

Ramesh Kumar Bansal …Petitioner.

Versus

Punjab Pollution Control Board, Patiala …Respondent.

CORAM: HON'BLE MR.JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr.Sanjiv Bansal, Advocate
for the petitioner.

Pandit Vinod K. Sharma, Advocate
for the respondent.

JUDGMENT

M.M.KUMAR, J. (ORAL)

The challenge in the instant petition filed under Article 226 of the Constitution is to quash the order dated 1.3.2004 (Annexure P9) passed by the Punjab Pollution Control Board-respondent altering the date of regularization of the petitioner from 31.3.1983 to 30.4.1988. It remains undisputed that the petitioner was initially appointed as Restorer and he was promoted as Clerk on 31.3.1983.. However, a condition was imposed in his promotion order dated 31.3.1983 (Annexure P1) that he was to pass the type test both in English and Punjabi at the speed of 40 w.p.m. within a period of six months. He cleared the required type test on 30.4.1988. As a consequence of passing the type test, the services of the petitioner as Clerk were regularized vide order dated 30.10.1989 (Annexure P2) and the

regularization was ordered with effect from 1.4.1983. He was, however, allowed increments/efficiency bar in the pay scale of Rs.400-600 from 30.4.1988. The respondent vide impugned order passed on 1.3.2004 had altered his date of promotion as Clerk to be 30.4.1988 instead of 31.3.1983 on the ground that he had passed the type test on 30.4.1988. After issuing Show Cause Notice and considering the reply filed by the petitioner, the impugned order has been passed apparently after a period of 16 years.

The stand of respondent in the written statement is that Regulation 13 of Punjab State Board for Prevention and Control of Water Pollution, Employees Service Regulations, 1980, apply and nobody is entitled to be considered for promotion on the basis of seniority list. It has further been asserted that there was specific condition imposed in the promotion order dated 31.3.1983 (Annexure P1) that the petitioner shall pass the type test in English & Punjab, both.

After hearing learned counsel for the parties, we are of the view that the petitioner had passed the test on 30.4.1988 and on that basis his services were regularized as Clerk with effect from 1.4.1983 allowing him increments/efficiency bar with effect from 30.4.1988 vide order dated 30.10.1989 (Annexure P2). There was no occasion with the respondent No.2 to review or revise that order after 16 years. Moreover, there is no provision of passing of type test in the Regulations of 1980, although some provision has now been made in the draft Regulations of 1987 which have been approved by the Government on 28.4.2003, which are known as Punjab Pollution Control Board for the Prevention & Control of Water Pollution Employees Service Regulations, 2002. However, those regulations cannot be operated retrospectively so as to adversely affect the case of the petitioner and constitute a basis to engraft a condition of passing type test of English & Punjabi by reviewing the order dated 30.10.1989 (Annexure P2).

In view of the above, the writ petition is allowed and order dated 1.3.2004 (Annexure P9) is hereby quashed restoring the order dated 30.10.1989 (Annexure P2).

(M.M.KUMAR)
Judge

March 8, 2007 **(RAJESH BINDAL)**
dkb **Judge**